



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Econo Lodge  
**File:** B-239912.2  
**Date:** August 15, 1990

John E. Savoy, Esq., Hill & Savoy, for the protester.  
Mike Harris, for Lodging Consultants, Inc., an interested party.  
Herbert F. Kelley, Jr., Esq., Department of the Army, for the agency.  
Robert Spiegel, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Protest against a geographic restriction is untimely filed after bid opening, where that restriction is apparent from the face of the solicitation.

### DECISION

Econo Lodge protests the award of a contract to Day's Inn Airport Plaza under invitation for bids (IFB) No. DAEA18-90-B-0002, issued by the Department of the Army for meals and lodging to be furnished armed forces applicants at the Military Entrance Processing Station (MEPS) in Phoenix, Arizona.

We dismiss the protest.

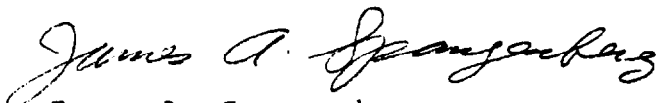
The IFB was issued on March 21, 1990, and bid opening was held on May 4, 1990. The IFB provided that "bids will not be considered from bidders whose facilities are located in high crime areas within a 10-mile radius of the MEPS. . . ." This provision then went on to precisely define the location of the "high crime area." Nine bids were submitted and Econo Lodge (a prior incumbent) was one of the three bidders rejected because their location was in that high crime area.

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Econo Lodge protests that this "high crime area" restriction is unreasonable, noting this provision was not included in a half dozen predecessor solicitations. The agency responds that the protester's challenge is untimely under our Bid Protest Regulations.

The Bid Protest Regulations provide that a protest based on an alleged impropriety in a solicitation which is apparent before bid opening must be filed prior to that date. 4 C.F.R. § 21.2(a)(1) (1990). Given the fact that Econo Lodge did not protest this action until June 7 (almost a month after bid opening), even though the solicitation clearly contained this geographic restriction, Econo Lodge's protest is untimely and will not be considered. Hoboken Shipyards, B-223581, B-223965, Sept. 19, 1986, 86-2 CPD ¶ 324.

The protest is dismissed.



James A. Spangenberg  
Assistant General Counsel